

DLCT01-000433-2018



IA No. 06/2023

SC No. 31/18

FIR No. 221/16

PS Civil Lines

State Vs. Sabab Ali and Ors.

U/s. 392/397/411/34 IPC

BAIL APPLICATION OF APPLICANT NADEEM @
FURQAN

13th March, 2023

Present: Mohd. Iqrar, Ld. Addl. PP for state.
Sh. Y.K. Gautam, ld. Counsel for applicant/accused
Nadeem @ Furqan.
SI Shankar in person.

1. Reply to the bail application filed.
2. Arguments heard.
3. This is an application filed on behalf of the applicant/accused Nadeem @ Furqan (hereinafter referred to as applicant) for grant of regular bail.
4. It is argued that the applicant is in J.C. since 15.04.2017. It is further argued that the applicant has been falsely implicated in the present case. It is further argued that the applicant is the sole bread earner of his family. It is further argued that nothing incriminating material has been recovered at the instance of the applicant. It is further argued that the co-accused Sakib Ali and Shabad have been released on bail by the Hon'ble District and Sessions Judge, Delhi. It is further argued that the applicant has been discharged in other cases. It is further argued that the earlier bail application of the

applicant were dismissed by this Court as the complainant was yet to be examined and the examination in chief of the complainant is deferred till 01.03.2023. It is further argued that the alleged case property is not produced nor the document/superdari of offending vehicle produced before this Court. It is prayed that the applicant be released on bail.

5. Application has been opposed by the Id. Addl. PP for State with the assistance of SI Shankar on the ground that the allegations against the applicant are grave in nature. It is further submitted that the applicant may influence the complainant and witnesses of the case. It is further submitted that the applicant is a habitual offender and may commit similar offences and have involvement in previous cases. It is prayed that bail application of the applicant may be dismissed.
6. As far as the question of grant of bail under Section 437 Cr. P.C. and 439 Cr. P.C. is concerned, the law in this regard has been settled by the Hon'ble Supreme Court of India in various judgments and has laid down various considerations for grant or refusal of bail to an accused in non bailable offences like:
 - (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
 - (ii) Gravity and seriousness of offence and punishment which the conviction will entail;
 - (iii) Nature of accusation and evidence therefor;
 - (iv) Reasonable possibility of securing presence of the accused at trial and likelihood of him absconding or fleeing if released on bail;
 - (v) Possibility of the offence being repeated;

- (vi) Conduct, character and behaviour of accused;
- (vii) Reasonable apprehension of the witnesses being tampered with;
- (viii) Means position and standing of the accused in the society;
- (ix) Danger, of course, of justice being thwarted by grant of bail;
- (x) Balance between the rights of the accused and the larger interest of the Society/State;
- (xi) Any other factor relevant and peculiar to the accused;
- (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused.

7. In the landmark judgment of ***Gurcharan Singh and Others Vs. State (AIR 1978 SC 170)***, it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the Courts. It was further held that there cannot be any inexorable formula in the matter of granting bail and the facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.
8. Record reflects that the main witness i.e. the complainant has been examined and he has turned hostile. Complainant has also not identified the applicant during his testimony.

9. Accordingly, the applicant/accused Nadeem Furqan is re-admitted on bail on furnishing P/B and S/B in a sum of Rs. 50,000/- with one surety of the like amount and subject to the following conditions :-
- a) *That he shall appear on each and every date of hearing before this Court.*
 - b) *That he shall provide his mobile number to the concerned SHO PS Civil Lines, within seven days of his release, which he shall keep switched on and active at all times.*
8. The application is disposed of in above terms.
10. The Ahlmad is directed to bring to the notice of the Court, if the applicant/accused fails to furnish the bail bonds within 30 days from today, for conducting a review in terms of the judgment passed by the Hon'ble Supreme Court of India in the case of ***“In Re Policy Strategy For Grant of Bail” SMWP (Criminal) No. 04/2021*** dated 31.01.2023, wherein the guidelines are laid down in this regard.
11. Copy of this order be given dasti to Id. Counsel for applicant/accused.
12. A hard as well as soft copy be also sent to the concerned Jail Superintendent immediately for information and necessary action.

(SUSHIL ANUJ TYAGI)
ASJ-04/Central/Delhi
JUDGE BAIL ROASTER
13.03.2023^(VR)